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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,867	03/23/2004	Don L. Keim	1760-300	5511

32905 7590 07/28/2005

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

EXAMINER

ROBINSON, KEITH O NEAL

ART UNIT	PAPER NUMBER
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1638

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,867

Applicant(s)

KEIM, DON L.

Examiner

Keith O. Robinson, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 11-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 11-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/23/2005
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

5.00

DETAILED ACTION

1. The text of those sections to Title 35, U.S. Code not included in this action can be found in a prior Office Action, mailed 4 March 2005.
2. This Office Action is responsive to the Amendments of 9 May 2005.
3. Applicant's remarks and amendments, filed 9 May 2005, have been received and acknowledged by the Examiner.
4. Applicant has amended claims 1, 4, 5, 6, 21 and 23-26 and cancelled claims 8-10.
6. Claims 1-7 and 11-28 are pending.
7. The objection of claims 1, 4, 5 and 21 are withdrawn in view of Applicant's amendments (see page 6, lines 10-17 of 'Remarks', filed 9 May 2005).
8. The 35 U.S.C. § 112, first paragraph rejection with regard to lack of written description and lack of enablement for claims 8-10 is moot in view of Applicant's cancellation of said claims.
9. The 35 U.S.C. § 112, first paragraph rejection with regard to enablement for claims 21-22 are withdrawn in view of Applicant's amendments (see page 6, lines 24-27 or 'Remarks', filed 9 May 2005).
10. The 35 U.S.C. § 102(b)/103(a) rejection over Wallace et al for claims 8-10 is moot in view of Applicant's cancellation of said claims.

Response to Arguments

11. Claims 1-7 and 11-28 remain rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.

12. Applicant's arguments filed 9 May 2005 with regards to the 35 U.S.C. § 112, first paragraph rejection, for claims 1-28, as failing to comply with the enablement requirement have been fully considered but they are not persuasive. The rejection in the previous Office Action was due to a lack of deposit statement in the specification (see pages 3-5, paragraph #7).

The rejection is maintained for the reasons cited in the previous Office Action. Applicant has failed to provide the conditions under which the deposit will be made. Applicant can overcome this rejection and place the application in condition for allowance by providing a supplemental response with a deposit statement indicating the conditions under which the deposit will be made.

Conclusion

13. No claims are allowed.

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith O. Robinson, Ph.D. whose telephone number is 571-272-2918. The examiner can normally be reached on Monday - Friday 7:30 am - 4:00 pm.

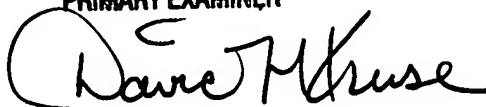
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones can be reached on 571-272-0745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Keith O. Robinson, Ph.D.

July 15, 2005

DAVID H. KRUSE, PH.D.
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "David H. Kruse", is written over the printed name and title.